

Public Welfare Investments Requiring Prior OCC Approval

Most national banks may make public welfare investments by notifying the OCC within 10 days after making their investments. The after-the-fact notice process provides national banks with the flexibility to take advantage of investment opportunities within short time frames. A bank must be “eligible” to use this process (see Section 24.2(e) and its investments must comply with the 12 CFR 24 public welfare and investment limit requirements (*see* Sections 24.3 and 24.4).

12 CFR 24 requires the OCC to publish investments that are inappropriate for after-the-fact notice. To date, these include:

- When a bank’s investment, plus prior public welfare investments and outstanding commitments, total an amount in excess of 5 percent of the bank’s capital and surplus. For this kind of investment, prior OCC approval is required. (Well-capitalized banks may request OCC approval to use the after-the-fact notice process for future investments up to 15 percent of its capital and surplus, under appropriate conditions.¹)
- A bank’s investment that involves other real estate owned (OREO).
- Any investment by a bank that does not meet the definition of an “eligible” bank (Section 24.2(e)).

A bank may submit to the OCC a request for prior approval of such investments.

Note that a bank may not make an investment as a general partner under 12 CFR 24 because it would expose the bank to unlimited liability. However, under 12 CFR 24, a bank may invest in its CDC Subsidiary that acts as a general partner in appropriate investment activities.

¹ For a bank to receive OCC permission to use the after-the-fact notice process for public welfare investments total an amount in excess of 5 percent of its capital and surplus, up to 15 percent, the bank must make this request in writing.